

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

CONSECO LIFE INSURANCE
COMPANY,

Plaintiff,

vs.

No. 4:06cv001378 SWW

ERIC WILLIAMS, individually and in his
capacity as executor of the Estate of
Nikki Williams, Deceased; ELLEN
BUCKLEY; and HAROLD WILLIAMS,

Defendants.

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ORDER

This action involves competing claims to insurance proceeds pursuant to a \$100,000 life insurance policy issued by Consec Life Insurance Company to the late Niki Williams. The competing parties, Eric Williams and Harold Williams, on the one hand, and Ellen Buckley, on the other, filed cross-motions for summary judgment, each seeking entitlement to the funds which were earlier deposited into the Registry of the Court. By Memorandum and Order entered July 17, 2009, the Court denied the motion for summary judgment of Eric Williams and Harold Williams and granted the motion for summary judgment of Ellen Buckley, concluding that Buckley was entitled to the insurance proceeds. Eric Williams and Harold Williams have appealed to the United States Court of Appeals for the Eighth Circuit.

The following motions are before the Court: (1) motion of Ellen Buckley for order authorizing Clerk to release interpleaded funds to Ellen Buckley¹ [doc.#95]; and (2) motion of

¹ This motion was filed prior to Eric Williams and Harold Williams' notice of appeal.

Eric Williams and Harold Williams to waive appeal bond and for stay pending appeal [doc.#100]. Having considered the matter, the Court denies the motion of Ellen Buckley for order authorizing Clerk to release interpleaded funds to Ellen Buckley and grants the motion of Eric Williams and Harold Williams to waive appeal bond and for stay pending appeal. As the funds in dispute are already in the Registry of the Court and interest is being earned on the funds and will continue to be earned pending appeal, the security of the judgment and the ability of Ellen Buckley to recover the same if the judgment is affirmed is beyond dispute. Accordingly, an inflexible requirement of a bond would be inappropriate in this case where ability to pay the judgment is so plain that the cost of a bond would be a waste of money. *Olympia Equipment Leasing Co. v. Western Union Telegraph Co.*, 786 F.2d 794, 796 (7th Cir. 1986).

IT IS THEREFORE ORDERED that the motion of Ellen Buckley for order authorizing Clerk to release interpleaded funds to Ellen Buckley [doc.#95] be and it hereby is denied.

IT IS FURTHER ORDERED that the motion of Eric Williams and Harold Williams to waive appeal bond and for stay pending appeal [doc.#100] be and it hereby is granted.

Dated this 26th day of August 2009.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE